

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Gladney Construction, Inc.,)	
)	C/A No.: 3:05-1746-MBS-BM
Plaintiff,)	
)	
v.)	
)	
William H. Edwards, Gail Edwards, and)	
International Family Church,)	
)	
Defendants,)	
)	
William H. Edwards,)	
)	
Third Party Plaintiff,)	
)	
v.)	ORDER
)	
Joe Louis Gladney,)	
)	
Third Party Defendant,)	
)	
William H. Edwards, Gail Edwards,)	
)	
Counter Claimants,)	
)	
v.)	
)	
Gladney Construction, Inc. and Joe Louis)	
Gladney,)	
)	
Counter Defendants.)	
_____)	

Plaintiff Gladney Construction, Inc. brings this action asserting several state law causes of action against Defendants William H. Edwards, Gail Edwards and International Family Church. On August 2, 2005, Defendant International Family Church filed an answer. Defendants William H. Edwards and Gail Edwards, appearing *pro se*, filed answers on June 7, 2006 and June 19, 2006,

respectively. Both *pro se* Defendants asserted a “counterclaim” against Plaintiff Gladney Construction, Inc. and asserted a third party claim against Third Party Defendant Joe Louis Gladney.

On April 3, 2007, Plaintiff Gladney Construction, Inc. and Third Party Defendant Joe Louis Gladney filed a motion to dismiss the “counterclaim” and/or Third Party Complaint filed by Defendants William H. Edwards and Gail Edwards. On April 4, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising the Defendants of the dismissal procedures and the possible consequences if they failed to respond adequately. Defendants failed to file a response.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On August 1, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that Plaintiff Gladney Construction, Inc. and Third Party Defendant Joe Louis Gladney’s motion to dismiss be denied. The Magistrate Judge also required Defendants William H. Edwards and Gail Edwards to confirm with the court, their desire to continue to contest this case. Plaintiff Gladney Construction, Inc. and Third Party Defendant Joe Louis Gladney filed no objections to the Report and Recommendation. On August 17, 2007, Defendant William Edwards submitted a letter to the Magistrate Judge expressing his desire to continue to contest the case. On August 20, 2007, Defendant Gail Edwards did the same.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation of the Magistrate Judge. Plaintiff Gladney Construction, Inc. and Third Party Defendant Joe Louis Gladney's motion to dismiss (Entry 81) is **denied**. This matter is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

s/ Margaret B. Seymour
Margaret B. Seymour
United States District Judge

October 5, 2007.

Columbia, South Carolina